EX-PARTE

Dear Your Honor

August 29, 2007

I have enclosed a copy of a letter I am sending to my State sentencing court dealing with this same issue. I am not seeking this relief by this route because I feel that it would be the only way to relax the career offender enhancement from my sentence, but because its a viable basis to have the prior vacated. I know and its clear to me now as it has been for years, that the commentary says it plainly enough, that I should not have received this enhancement.

However, I just wanted you to see what I was doing and that I am not playing any games. I am just trying to understand. This is so clear. Is it just being ignored, or is it just difficult to see because its a rare issue? I am certain that the government is smarter than me at law, and I know I am correct, so why is it I am being fought at with tooth and nail? It's their job.

Your Honor I want to leave you with two sentences from the commentary.

1. The date that a defendant sustained a conviction shall be the date that guilt of the defendant has been established, whether by guilty plea, trial or plea of nolo contendere

A. THE DATE IN THIS CASE WAS 9.11.90 guilt WAS ESTABLISHED.

2. Pursuant to U.S.S.G. 4B1.2, application note 1, A prior felony conviction means a prior federal or state conviction for an offense punishable by death or imprisonment for a term exceeding a year, regardless of whether such offense is specifically designated as a felony, and regardless of the actual sentence imposed.

A. This offense was only punishable by 1 year. at the time guilt was established, and regardless that I was sentenced under the old statute to 2 years probation, at the time I pled the max punishment was 1 year

At worse case the rule of lenity should have been applied.

Your Honor. I am asking, that you please correct this Although close, the INDICTMENT should HAVE NEVER stood.

If relief is given. I hereby retract all other pending motions, and lay down and program and finish whatever time may be left.

If given the low end of my range of level 26 Category 5. 110 months. I'll be finished this sentence. If the high end of 137 months I'll be very close. However, relief is due.

Your Honor, I ask that this be Expidited at your earliest, and that I be remanded sua-sponte.

Thank You for your time and hearing me.

Sincerely

Parris Wall

Ex parte

To:Superior Court President Judge
Kent County Courthouse
38 The Green
Dover DE 19901

Fr:Parris Wall
U.S.Penitentiary
P.O.Box 1000
Lewisburg,PA 17837-1000

Wednesday August 29,2007

Dear Your Honor,

I am writing in regards to a sentence that I received in this Court on September 11,1990.This sentence has long been completed,it was a sentence of two years probation.

On July 17,1990,the Delaware Law changed reducing the statutory maximum penalty for assault in the third degre from 0-2 years maximum penalty to 0-1 year maximum penalty.

On May 19,1990,after this law was changed,I was charged with assault in third.

OnJune 30,1990,the new statute of 0-1 year for assault in the third degree became effective.

On September 11,1990,after the new 0-1 year statute became effective,through the advise of my attorney at the time,I entered a plea of 2 years probation which the court accepted.

However,this court was without jurisdiction to impose the sentence that I received for the following reasons:

1.) The statute at the time of sentencing is the statute that governs,unless it runs afoul with the constitutions ex post facto clause.*Sentence I received was not pursuant to the 0-1 year statute in effect at the time I was sentenced.

2.) A repealed penal statute cannot be applied retroactively. *The court was without jurisdiction to even allow me to enter a plea to a statute that had been repealed.

A jurisdictional claim may be reviewed at any time,thus raising any procedural bar that would otherwise prevent this court from hearing such claim.

Your Honor,I belive that I may have a Rule 61 Motion pending in this Court at the moment.I am not sure.I have filed to this court several time concerning this issue,as well as written many letters seeking relief and on several occassions have not received any reply whatsoever,and on others I was sent a Rule 61 Post Convictio Motion 2 file,for which I was told that I was procedurally barred,only to be mailed another in the same package in which I was told tht I was procedurally barred..

However,as you now see my claim is jurisdictional now,thus raising the bar.

I don't believe that it 's hard to see the error and the infirmities that my conviction rest upon.All I ask is that the proper thing be done,and that is to releive me of thatsentence.

In the event that I do have a Rulr 61 pending I ask that the letter as wellas the issues and content be considered in conjunction with that said motion., as an amendment,or a motion in itself.

Your Honor,I 've beat on the doors of this court for the past eight years,and I've been correct ,although before I may not have raised this under the correct ground to trigger the relirf sought.I am thoroughly convinced that I now have. It's obvious,and always has been.

I respectfully askwith all due humility that this issue be expidited at your earliest convenience.

Dated:

Sincerely,

* Enclosed is a recent correspondence with my federal district court Judge.

Ex parte

To:Hon.Joseph J.Farnan
United States District Court
844 N.King Street
Wilmington,DE 19801

Fr:Parris Wall #04172-015
U.S.P.Lewisburg
P.O.Box 1000
Lewisburg,Pa 17837-1000

August 22,2007

Dear Your Honor,

I understand that is not the normal practice to write directly to you,but I would like to ask that you please hear me out.Please.

I'll try to be concise as i know how to be as I explain my position to you.I know that I am correct,and I believe that you will understand when you are through with this letter.I am not asking that you entertain this as a motion,for that would be to circumvent the procedural gatekeeping policies,but I would like to ask that after hearing and agreeing with my position that you call me back to court to correct this gross error-sua sponte,I believe that means on the courts own motion

I've fought and argued this issue since 1999,before sentencing during,and after in various fashions.The issue due to changes in the state statute is quite rare/novel and I dont believe at that time that the court intentionally overlooked my point,but just misconstrued my position for the norm,example:" It was a misdemeanor", "I got sentenced to less than a year", " I got probation",or "that it didn't carry over a year at the time of my sentencing in federal court for my instant offense". None of these are my position in the least.

Here is a little background on the prior offense that was erroneously used to qualify me as a career offender.

The crime that was used ,which is invalid is assault in the third degree in the State of Delaware.Facially this appears to be a valid qualifying crime of violence to use against me for the career offended enhancement,but the commentary as is applied to the facts of this case were misconstrued.1B1.7 U.S.S.G. explain my position of how the commentary must be followed to interpret the application of the guidelines.

On July 17,1989,the Delaware law changed reducing the statutory maximum penalty for assault in the third degree from two years maximum punishment ,to one year maximum punishment.

On May 19,1990,petitioner was charged with the crime of assault in the third degree.***This was after the law changed ,but before it became effective.**

On June 30,1990,the new one year statute for assault in the third degree became effective.

On September 11,1990,after the new zero to one year maximum statute became effective,through the advise of my attorney at the time,I pled guilty to the former two year statute,and not the zero to one year maximum statute that was in effect.Because I pled to the former statute instead of availing myself of the current effective statute of zero to one year ,the Court found me to be a career offender.

Before I go any further I want to say that a repealed penal statute cannot be applied in pending prosecutuions or proceedings on appeal.Although this is an issue that I could have argued at the state level,the fact remains that the Court and U.S. Attorney wre aware of the fact that this was a repealed statue that I pled guilty to in the state and by recognizing this,which should have been obvios to identify with having all the pertinent paperwork relating to this prior offense,could have ,and should have at least applied the **"rule of lenity"** and not relied upon the career offenfer enhancement.

Also, See United States v. Fenton, 309 F.3d 825, 828n.3 (3rd. Cir. 2002 [W]here...the [Sentencing] Guidelines do not clearly call for enhancement, the rule of lenity shoild prevent the application of a significantly enhanced sentence.

Application Note (1) to the commentary of 4B1.2 of the U.S.S.G. reads in pertinent part: "Aprior felony conviction for an offense punishable by death or imprisonment exceeding one year, and regardless of whether such offense was specifically designated as a felony, and regardless of the actual sentence received.

The fact that I was sentenced to a sentence of two years probation, or even if it was two years imprisonment holds no weight in the case of the petitioner. Quoting U.S.V. Santiago 83 F.3d 20, "The guideline, however, does not speak in terms of judicial judgement (the length of the sentence meted out) but, rather, in terms of legislative judgement (the maximum punishment applicable to the offense. See U.S.S.G. 4B1.2

In the U.S.S.G....."**Definitions of Terms Used in Section 4B1.1**, subsection (3) the last sentence of the subsection reads, "The date that the defendant sustained a conviction shall be the date that the guilt of the defendant gas been established, whether by guilty plea, trial, or plea of nole contendere.

I pled guilty to this prior offense on September 11, 1990. It is undisputed and on record that at this time (9-11-90) that the actual statutory maximum for this charge of assault in the third degree was only punishable by a year maximum. This fact alone is sufficient to show that I should have not received the career offender status.

Your Honor, I've been pursuing this issue diligently for the better part of my incarceration. I know that my sentence is incorrect with the career offender designation, and I believe you will see that too. This has been danced around for years. All I ask is to be called back to court and be resentenced to my range absent the career offender classification, which is Level -26, Catergory # 5 at 110-137 months.

I know that I am correct and it's hard to believe that the Court and the government with their vast resources at their disposal cold see otherwise.

To say that my state prior used is more than the statutory maximum that should have been imposed which was one year max,(I received two) is to concede that it was imposed in violation of the law,and the Court and U.S. Attorney having knowledge of this now and at that time could and should have recognized this and never sentenced me as acareer offender.

I ask with all due sincerity that you call be back to Court sua sponte and correct this gross error.I am asking for what should have been done years ago.It's the right thing to do.A new judgement of committment would suffice all the same to cut the cost of obtaining a writ and transit.

I'd like to ask that Your Honor respond to this at the earliest convenience.

Dated:

8/29/07

RESPECTFULLY SUBMITTED,

Parris Wall